

techniques aren't legal. Maybe that is a bad reflection on our country.

So there was a debate on this. That is fine. That is the way it should be.

As a matter of fact, one of the Senators whom I have the most respect for in this entire body, Senator MCCAIN—who knows a lot about torture and a lot about interrogation and has been a hero and is well respected—led that debate on the Senate floor that said that these enhanced interrogation techniques—waterboarding—aren't what we should be doing in this country. So let's clarify this. Yes, a previous administration said this is legal. We do it to our own soldiers and marines and Navy SEALs, but we are going to look at a higher value on what we believe is right and what Americans should be doing or should not be doing.

So we actually had a debate in 2016 on this floor as part of the National Defense Authorization Act, where Senator MCCAIN led an effort with an amendment that said: From here on out, the techniques that our CIA operatives would be able to use and that should be approved are only those in the Army Field Manual. Those are OK—not the rest of what happened in terms of the enhanced interrogation techniques. Then this body passed that. As a matter of fact, I voted for the McCain amendment out of respect, appreciation, and the arguments that JOHN MCCAIN was making. So we clarified the law.

In many ways, that is how the system is supposed to work. In challenging times with a lot of turmoil, yes, these operatives were pushing the envelope, but it was legal. We should take a step back and say: Maybe that shouldn't be what we should be doing going forward. And we changed the system through debate on the floor, led by Senator MCCAIN.

Let me just end by saying that here is how it is not supposed to work. We have a very dangerous situation, like we had after 9/11. We asked our best and brightest to risk their lives to defend this country, to do really tough operations all around the world. We go tell them to do things. This body is briefed on it. We tell them it is legal, and then later, we said: Do you know what? Now we are going to hold that against you.

Not only is that unfair, but if we continue doing that, how hard do you think it is going to be to get the top people in our country to want to join the CIA or the special forces or the military? We tell them to go do this, to protect your Nation; it is legal. And then 10, 15 years later, we say: No, maybe it wasn't.

I want to thank Ms. Haspel for wanting to serve her country at the highest level, for her example, and all the other members of the CIA's clandestine services, who have been on the frontlines protecting this Nation. I certainly hope my colleagues who are looking at that period of history, looking to hold it against her, recognize the broader con-

text. Not only were she and the other members of the Agency asked to do that kind of work, but they were told it was important to protect the country and that it was legal.

When her nomination comes to the floor tomorrow, I certainly hope my colleagues keep this all in mind, look at her broad qualifications, and vote for her to be the next CIA Director.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

#### ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that following leader remarks on Thursday, May 17, Senator PAUL or his designee be recognized to make a motion to proceed to S. Con. Res. 36; further, that there be up to 90 minutes of debate on the motion, with 45 minutes under the control of Senator PAUL or his designee and 45 minutes under the control of the Democratic leader or his designee; finally, that following the use or yielding back of that time, the Senate vote in relation to the motion.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

#### EXECUTIVE SESSION

##### EXECUTIVE CALENDAR

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session for the consideration of the following nomination: Executive Calendar No. 829; that the nomination be confirmed; that the motion to reconsider be considered made and laid upon the table; that the President be immediately notified of the Senate's action; that no further motions be in order; and that any statements relating to the nomination be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

##### IN THE COAST GUARD

The following named officer for appointment as Vice Commandant, United States Coast Guard, and to the grade indicated under title 14, U.S.C., section 47:

*To be admiral*

Vice Adm. Charles W. Ray

#### LEGISLATIVE SESSION

##### MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate resume legislative session for a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NOTICES OF ORGANIZATIONAL MEETINGS

##### JOINT COMMITTEE ON PRINTING

Mr. BLUNT. Mr. President, there will be an organizational meeting of the Joint Committee on Printing in S-219, U.S. Capitol, on Wednesday, May 16, 2018, at 3:30 P.M.

##### JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. BLUNT. Mr. President there will be an organizational meeting of the Joint Committee of Congress on the Library in S-219, U.S. Capitol, on Wednesday, May 16, 2018, at 3:45 P.M.

#### NOMINATION OF GINA HASPEL

Mrs. FEINSTEIN. Mr. President, I rise today in opposition to the nomination of Gina Haspel to be CIA Director.

Ms. Haspel played a central role in the CIA's rendition, detention, and interrogation program. This was one of the darkest chapters in our Nation's history, and it must not be repeated.

Since her nomination, I and my staff have reviewed thousands of classified documents detailing her role in the program.

The takeaway is this: Ms. Haspel was a strong supporter of the torture program.

While many CIA operatives expressed hesitation or outright opposition to the program, such as John Brennan, Ms. Haspel was not one of them.

As I said last week, this nomination is bigger than one person. This nomination is about reckoning with our history. It is about grappling with our country's mistakes and making clear to the world that we accept responsibility for our mistakes and they will never be repeated.

I was struck by Ms. Haspel's repeated insistence at her hearing that the torture program was "legal."

The torture program was illegal at the time based on international treaties the United States is signatory to, including the Convention Against Torture and Geneva Convention.

While the Office of Legal Counsel signed off on waterboarding and other "enhanced interrogation techniques," its flimsy legal analyses were withdrawn in 2003 and 2004 and should never have taken precedence over international law.

The bottom line is this: No one has ever been held accountable for the torture program, and I do not believe those who were intimately involved in it deserve to lead the agency.

What message does it send to the world if we reward people for presiding over what is considered to be one of the darkest chapters in our history?

Of course, supporters of the torture program are constantly trying to rewrite history, so I think it is important to revisit that history here today.

After a 5½ year review of the CIA's detention and interrogation program, the Senate Intelligence Committee released a 500-page declassified executive

summary in December 2014. The summary was backed up by a 6,700-page classified report with nearly 38,000 footnotes citing to CIA and other official records. Every finding and conclusion is thoroughly supported by documentation. The report examined the detention of at least 119 individuals and the use of coercive interrogation techniques—in some cases amounting to torture.

It is also important to note this was a bipartisan report with each key vote during the process of the report having both Democrats and Republicans voting yes. In December 2012, the Intelligence Committee approved the Report by a 9-6 vote, with one Republican voting yes. In April 2014, the committee approved the executive summary and findings and conclusions for declassification and public release by an 11-3 vote, with three Republicans voting yes. The full report remains classified.

In December 2014, copies of the full, 6,700-page classified report were sent to parts of the executive branch, including the CIA, to be used broadly by those personnel with appropriate clearances to ensure that the abuses documented in the Report would never be repeated. This report was intended as an important tool to help educate our intelligence agencies about a dark chapter of our Nation's history.

However, last May, when Ms. Haspel was already the Deputy Director, the CIA returned its only copy of the report at the request of Chairman Burr. The CIA Inspector General, the Director of National Intelligence, and others followed suit and also returned their copies. In fact, only three copies of the report exist outside of the Senate Intelligence Committee; all of the others are gone.

Today, two copies of the full report remain under order by Federal judges, and a third exists because of President Obama's decision in December 2016 to preserve the full report with the National Archives under the Presidential Records Act.

During Ms. Haspel's hearing, she stated multiple times that the CIA's rendition, detention, and interrogation program was "legal and authorized by the highest legal authority in our country and also the President."

I find Ms. Haspel's statement to be both misleading and incorrect. While the Office of Legal Counsel wrote several secret legal opinions used to justify the program, I don't believe those actions were ever legal, I am not aware of a single court ruling that affirmed those OLC opinions, and those OLC opinions were in conflict with the multiple international treaties to which the U.S. is a signatory to.

In fact, the Department of Justice conducted an investigation of the facts and circumstances surrounding the drafting of these torture memos and the Department's role in the implementation of interrogation practices by the CIA.

On June 29, 2009, the DOJ's Office of Professional Responsibility, the unit charged with investigating allegations of misconduct, issued its report. That report concluded former Deputy Assistant Attorney General John Yoo and former Assistant Attorney General Jay Bybee committed professional misconduct in the drafting of those seriously deficient legal opinions.

Additionally, Jack Goldsmith, the Assistant Attorney General who led the Office of Legal Counsel in 2003 and 2004, found that their memoranda were "riddled with error." He also concluded that key portions were "plainly wrong" and characterized them as a "one-sided effort to eliminate any hurdles posed by the torture law."

Moreover, the CIA program certainly didn't meet the bar set by any of the four major international legal conventions prohibiting torture.

First, the Geneva Convention, ratified by the U.S. in 1949, common article 3 provides further protections against torture in times of conflict. It states that those persons no longer taking active part in hostilities, including those who are detained, are prohibited from being subjected to: "violence of life and person, in particular murder of all kinds, mutilation, cruel treatment and torture" as well as "outrages upon personal dignity, in particular humiliating and degrading treatment."

Second, the United Nations Universal Declaration of Human Rights, ratified by the U.S. in 1948, states in article 5 that: "no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

Third, the International Covenant on Civil and Political Rights, ratified by the U.S. in 1992, repeats verbatim, the outlawing of torture found in the Universal Declaration of Human Rights.

Additionally article 5 of the International Covenant includes language meant to prevent states from utilizing legal work-arounds to overcome the spirit of the condemnation of torture.

Fourth, the United Nations Convention Against Torture, ratified by the United States in 1994, defines torture in article 1 as: "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession. . . ."

I also find it appropriate to note for the record that the committee sought to use pseudonyms created specifically for this report so that the readers could connect the actions of the same CIA officer throughout the report, but without their actual name or other personally identifying information.

To address the CIA's concerns, the committee agreed to reduce the number of CIA personnel listed in pseudonym from a few hundred ultimately down to 14 people who were most intimately involved in the CIA's detention and interrogation program.

The CIA and the White House refused to allow these 14 individuals to be list-

ed in pseudonym. The lack of pseudonyms and, in many cases, even a title of a CIA officer, means that connections between a person's actions and statements cannot be made and that the seniority and positions of authority of individuals in the report are hidden.

In light of Ms. Haspel's nomination to be Director, we have asked repeatedly for pertinent records to be declassified, only to be stonewalled at every turn.

Instead, the CIA, with Ms. Haspel as the Acting Director, has engaged in a selective declassification campaign to bolster Ms. Haspel's nomination, while keeping all potentially damaging material under wraps.

Given the CIA's intransigence on Haspel's records, I am very limited in what I am able to say about her specifically.

However, I am able to revisit what happened at the CIA "black sites," which is detailed extensively in the report's summary.

For example, one detainee, Abd al-Nashiri, was interrogated using CIA's enhanced interrogation techniques, including being waterboarded at least three times. These tactics were not just morally reprehensible; they were ineffective.

The committee found, based on a review of CIA interrogation records, that the use of the CIA's enhanced interrogation techniques on detainees like al-Nashiri was ineffective in obtaining accurate information or gaining detainee cooperation.

Contrary to CIA claims, these so-called enhanced interrogation techniques did not produce intelligence that thwarted terrorist plots or resulted in the capture of terrorists. That intelligence was already available from other sources or from the detainees themselves before they were tortured. In fact, torture often led to false information.

The report also lays out, in excruciating detail, that the program was grossly mismanaged, and the CIA provided Congress and the public with inaccurate information.

Again, while I can't speak in depth about Ms. Haspel, our report makes clear that surprisingly few people were responsible for designing, carrying out, and managing the torture program.

This was not something that involved the entire Agency. It was limited to the Agency's top leadership and staff, including Directors, Deputy Directors for Operations, and senior level management at the Counterterrorism Center, among others.

As we know from the extremely limited information Ms. Haspel has publicly provided, she did hold positions including senior level management at the Counterterrorism Center.

She has declined to answer publicly when asked whether she had responsibility, supervision, or approval relevant to the CIA rendition, detention, and interrogation program.

Additionally, because Ms. Haspel as the Acting Director for CIA and the Director of National Intelligence have refused to declassify any additional information, I am unable to publically discuss her exact role in late 2002.

Furthermore, I am also unable to publically discuss the things I know she approved as a senior level supervisor at the Counterterrorism Center from 2003 to 2004 or discuss what she worked on as the chief of staff to the Deputy Director for Operations from 2005 to 2008.

Instead, I can only reference reports by former deputy counsel of the CIA, John Rizzo, that Ms. Haspel was one of "the staunchest advocates inside the [CIA] for destroying the tapes" of CIA interrogations conducted under the torture program.

I find the CIA's responses to requests for information about Ms. Haspel to be wholly inadequate. Ms. Haspel is not an undercover operative; she is the acting CIA Director seeking a Cabinet-level position.

It is unacceptable for her or the CIA to hide her behind a wall of secrecy.

I believe Senators and the American public have the right to know whether or not the nominee before us was a senior manager for a program that has been shown to be deeply flawed, as well as a number of other disturbing facts.

Without the full scope of Ms. Haspel's involvement available for public review, I do not see how this body can adequately carry out its constitutionally mandated duty to advise and consent on the president's nominee.

Proponents of Ms. Haspel's nomination have argued that she was just doing her job and following orders.

If confirmed, what would Ms. Haspel do? Would she carry out and enforce the President's directives if they would violate our Constitution and international treaties?

I am also concerned her leadership could create problems for the CIA to perform one of its core functions: cooperating with foreign governments— and European allies in particular.

Specifically, her confirmation could complicate U.S.-German relations. While the German Government has not made a public position on Ms. Haspel's nomination, Germany is strongly opposed to torture and multiple U.S. intelligence actions outlined in the Senate Intelligence torture report have already caused rifts in U.S.-German relations.

Additionally, when Ms. Haspel was promoted to CIA Deputy Director in 2017, the European Center for Constitutional and Human Rights, headquartered in Berlin, petitioned German prosecutors to order an arrest warrant for Haspel due to her participation in the CIA torture program.

While I understand the German Government is unlikely to issue an arrest warrant, Germans still remember that U.S. intelligence officials mistakenly abducted and tortured Khalid al-Masri, a German citizen in 2003.

Mr. Masri, a German citizen, was seized on December 31, 2003, as he entered Macedonia because he was wrongfully believe to be an Al Qaeda terrorist traveling on false German passport.

He was then turned over to the CIA, which rendered, detained, and interrogated him. After 5 months, he was dropped on a roadside in Albania.

This was a grave mistake that even Ms. Haspel acknowledged in a pre-hearing question whether the CIA ever rendered or detained suspects who were innocent by stating: "I understand that the CIA's Office of the Inspector General conducted a review of the rendition of Khalid al-Masri and determined that CIA did not meet the standard for rendition under the September 17th, 2001 Memorandum of Notification (MON)."

Even though the CIA acknowledges this mistake, it is incomprehensible that no one has been held accountable for this and other violations.

If Ms. Haspel is confirmed, it would send the wrong message to the country and to the world. It would send the wrong message that America has abdicated its moral authority. It would send the wrong message that we condone behavior that belies the conscience and the values of this nation.

When the Obama administration chose not to prosecute those involved in the CIA's torture program, they claimed we were moving forward, not backward.

To elevate a person with reportedly intimate involvement in a torture program to lead our Central Intelligence Agency would signal to our allies and our enemies that we are looking backward.

This nomination is, in effect, a referendum on whether America condones the use of torture.

If confirmed, this nominee's decisions will affect the lives and safety of all Americans.

Our job is to assess whether the nominee has the strength of character to stand up to her superiors when reckoning with violations of our rule of law and moral values.

Unfortunately, based on Ms. Haspel's record at the CIA, the lack of public transparency regarding her tenure, and the implications for America's reputation at home and abroad, I cannot support this nomination.

#### NATIONAL POLICE WEEK

Mr. WHITEHOUSE. Mr. President, National Police Week pays special honor to the law enforcement officers who have lost their lives in the line of duty for the safety and protection of our citizens and communities. I am proud to cosponsor the resolution designating National Police Week as we recognize the service and spirit of all the officers who diligently exhibit what Victor Hugo called "conscience in the service of justice."

I am especially grateful for the men and women of Rhode Island's local and

State police who put their lives on the line every day to keep our families safe. As a former U.S. Attorney and State attorney general, I have worked closely with some of Rhode Island's finest police officers, and I believe they are among the best in the country. Supporting the vital mission of the police and fostering strong relationships between our communities and law enforcement was a top priority for me in those roles. Here in the Senate, I remain committed to supporting our brave law enforcement officers, their departments, and their families.

I met this week with Colonel James J. Mendonca, chief of the Central Falls Police Department and president of the Rhode Island Police Chiefs Association. Under his leadership, the association is working to make Rhode Island a national leader in gun violence prevention, drunk driving awareness, and community engagement.

Law enforcement officers are the guardians of our communities, often paying the ultimate price for our safety. As we recognize the service and sacrifice of the law enforcement community this National Police Week, I am particularly mindful of the names of some 50 officers from Rhode Island etched onto the National Law Enforcement Officers Memorial, including some Federal officers who died while on duty in Rhode Island.

In the words of the old hymn:

Now the laborer's task is o'er;  
Now the battle day is past . . .  
Father, in Thy gracious keeping  
Leave we now thy servant sleeping.

In Rhode Island and across the United States, we remember and honor their vigilance, compassion, and valor.

#### HMONG VETERANS' SERVICE RECOGNITION ACT

Mr. WHITEHOUSE. Mr. President, as a young man, I lived with my father while he served as U.S. Ambassador to Laos. I came to know it as a heartbreakingly beautiful country, with lovely, kind people, into which our international contest with communism violently intruded.

The goal of the U.S. in Laos at the time was to prevent North Vietnamese forces from using Laos as a supply line for attacks on South Vietnam, along what was known as the Ho Chi Minh Trail, and to prevent Laos itself from falling under Communist domination by the Pathet Lao forces.

So began a covert war in Laos, funded by the CIA, in which at least 35,000 Lao and Hmong perished.

The legendary Hmong military leader, General Vang Pao, operated out of a base at Long Tieng in the mountains of Laos. He told the New York Times in 2008, "There were three missions that were very important that were given to us and to me. . . . One was stopping the flow of the North Vietnamese troops through the Ho Chi Minh Trail to go to the south through Laos. Second was to rescue any American pilots during the